

CALIFORNIA COASTAL COMMISSION

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PUBLIC NOTICE

Prepared November 23, 2005 (for December 15, 2005 Hearing)

To: Commissioners and Interested Persons

From: Charles Lester, Deputy District Director
Steve Monowitz, District Manager
Mike Watson, Coastal Planner

Subject: City of Pismo Beach LCP Minor Amendment Number 1-05 (Adult Businesses)
Proposed minor amendment to the City of Pismo Beach certified Local Coastal Program to be heard at the Coastal Commission's December 15, 2005 meeting at the Hyatt Regency Embarcadero (5 Embarcadero Plaza) in San Francisco.

The City of Pismo Beach is requesting that its certified Local Coastal Program (LCP) Implementation Plan (IP/Zoning Ordinance) be amended. This amendment request was filed on November 7, 2005 pursuant to Coastal Act Section 30514(b) and California Code of Regulations (CCR) Sections 13554 and 13555. The proposed amendment would:

add more specific provisions for licensing, locating, and operating adult-oriented businesses throughout the City of Pismo Beach. In particular, the amendment expands the City's definition of adult businesses and establishes the various standards necessary to carry out future development consistent with the existing land use plan standards. The regulations of the new Adult Business ordinance are consistent with and in some cases more restrictive than the existing IP policies and standards. (new IP sections 17.006.0037; 0039; 0041 – 0047; 0901; 0916 – 0917; 17.045.153; revised sections 17.006.0040; 0048; 0919; 17.045.020; 17.045.030; delete section 17.045.040)

Based on its review of submitted materials, the Executive Director has determined that the LCP amendment qualifies as a minor amendment. Section 13554(a) of the California Code of Regulation's defines minor amendments to certified Implementation Plans (zoning ordinance) as:

changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and which are found by the Executive Director of the Commission to be consistent with the land use plan as certified by the Commission.

The proposed amendment promotes the designation of adult businesses from conditional use to principally permitted use within the General Commercial zone (C-2). This change should not,



however, result in any expansion of such uses in the coastal zone, as adult businesses are restricted to the C-2 zoning designation, which occurs in very limited areas of the C-2 zone and not at all along the shoreline (see zoning map, Exhibit B). Moreover, the proposed non-conforming provision will ultimately phase out existing adult oriented businesses / uses elsewhere in the coastal zone that may be more appropriately developed with visitor-serving or commercial retail uses (see non-conforming discussion below).

The amendment expands the definition of adult businesses shown in IP section 17.006.0040 to include more specific detail on a host of adult-oriented enterprises. The proposed standards will restrict adult oriented stores and cabarets from being located adjacent to schools, playgrounds, and any other public or private facility likely to be used by minors (e.g., child care facilities). The proposed amendment also places additional restrictions on signing and advertising in connection with the adult business so as to be indiscernible by the public beyond the walls of the place of business. The application requirements for a business license to operate an adult oriented business likewise are to be expanded to include additional ownership information, security / background check, a detailed description of the proposed business, and a detailed diagram of the premises.

Finally, the LCP amendment includes provisions to sunset adult oriented business uses that do not conform to the new ordinance (i.e., non-conforming uses) within two (2) years of adoption of the ordinance, unless the owner/operator is approved an extension of time for termination of the non-conforming use. Time extensions will be granted for up to two years and approved only if the owner/operator can prove that a substantial investment in the property was made prior to adoption of the ordinance, and they are unable to recoup said investment before the date established for termination of the use.

As submitted, the proposed amendment to the adult business standards is consistent with, and in some instances, more restrictive than the existing standards for development in the general commercial zone (C-2). The amendment will not change the kind, location, intensity, or density of use of the underlying C-2 zoning, and will not conflict with any policy or standards contained within the certified General Plan / Land Use Plan or Chapter 3 of the Coastal Act.

The purpose of this notice is to advise interested parties of the Executive Director's determination (pursuant to CCR Section 13555) that the proposed amendment is minor as defined in CCR Section 13554 because it clarifies LCP terminology and does not conflict with Chapter 3 of the Coastal Act or any other policy in the City's certified Land Use Plan (CCR Section 13554(d)(3)).

Pursuant to CCR Section 13555, the Executive Director will report this determination to the Coastal Commission at its December 15, 2005 meeting at the Hyatt Regency Embarcadero located at 5 Embarcadero Plaza in San Francisco. The Executive Director will also report any



objections to the determination that are received within ten working days of posting of this notice. The proposed minor amendment will be deemed approved and will become effective immediately unless one-third of the appointed members of the Commission request that it be processed as a major LCP amendment (CCR Section 13555(a)).

If you have any questions or need additional information regarding the proposed LCP amendment or the Commission procedures, please contact Mike Watson in the Coastal Commission's Central Coast District Office in Santa Cruz at the address or phone number listed above. If you wish to register an objection to the proposed minor LCP amendment, please do so by December 9, 2005.

Attachments:

Exhibit A: Proposed Text of the City of Pismo Beach LCP Amendment for Adult Businesses.

Exhibit B: Zoning Map

